

09/30/08

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MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA  
FOR MEETING HELD ON TUESDAY EVENING, AUGUST 26, 2008

The City Council met at 5:00 pm, on the above-mentioned date, for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

The Council then met at 7:01 pm for a regular meeting in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Joe Kornder, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Assistant City Manager, Director of Planning and Inspection, Director of Public Works/City Engineer, City Attorney and City Clerk/Auditor.

- 3.A MOTION was made by Caserta, seconded and unanimously carried, that, per the Director of Planning and Inspection (08/22/08), the Council continue to September 16, 2008 the Planning Commission recommendation of July 23, 2008 to rezone two vacant lots at 1888 and 1898 Fairway Glen Drive from Single Family Residential (R1-6L) to Planned Development [PD(R1-6L)] in conjunction with the construction of two single family residences (PLN2006-06024).

- 5.A.7 In consideration of the Consent Calendar, the City Manager noted that the Director of Public Works/City Engineer's memo (08/20/08) recommending adoption of a Resolution establishing the overweight and oversize vehicle loads permit fee and procedure at \$16.00 per single trip and \$90.00 per year be **continued** to a date uncertain.
- 5.A.1 **MOTION** was made by Kolstad, seconded and unanimously carried, that, per the Director of Electric Utility (08/19/08), the Council **approve** the use of City Electric forces for the installation of facilities at 555 Reed Street.
- 5.A.2 **MOTION** was made by Kolstad, seconded and unanimously carried, that, per the Director of Finance (08/18/08), the Council **accept** the Financial Status Reports for July 2008.
- 5.A.3 **MOTION** was made by Kolstad, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (08/20/08), the Council **adopt** Resolution No. 08-7548 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING RESTRICTIONS ON EDWARD AVENUE" which establishes No Parking zones for vehicles in excess of 20 feet in length and with three or more axles on both sides of Edward Avenue between Laurelwood Road and Aldo Avenue.
- 5.A.4 **MOTION** was made by Kolstad, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (08/20/08), the Council **adopt** Resolution No. 08-7549 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS IN FRONT OF 1922 MAIN STREET" which establishes a Disabled Parking Zone in front of 1922 Main Street.
- 5.A.5 **MOTION** was made by Kolstad, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (08/20/08), the Council **adopt** Resolution No. 08-7550 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS ON GRANT STREET AND ON PARKER STREET" which establishes Loading zones at two locations on the west side of Grant Street south of Parker Street and on the south side of Parker Street west of Grant Street.

- 5.A.6 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (08/20/08), the Council adopt Resolution No. 08-7551 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS IN FRONT OF 2468 HART AVENUE" which establishes a Disabled Parking Zone in front of 2468 Hart Avenue.
- 5.A.8 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Director of Water and Sewer Utilities (08/06/08), the Council adopt Resolution No. 08-7552 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING A WATER SUPPLY ASSESSMENT FOR A DEVELOPMENT APPLICATION AT 2600-2800 SAN TOMAS / 2400 CONDENSEA STREE" which approves the Water Supply Assessment for Harvest Properties, 2600-2800 San Tomas Expressway/2400 Condensa Street.
- 5.A.9 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Director of Finance (08/04/08), the Council adopt Resolution No. 08-7553 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING CITY OF SANTA CLARA MUNICIPAL SERVICES DIVISION UTILITY SERVICES RULES AND REGULATIONS REGARDING UTILITY SERVICES IN THE CITY OF SANTA CLARA" which implements the Municipal Services Division Utility Services Rules and Regulations as revised to include establishing the basis for writing off closed, uncollectible Accounts Receivable amounts.
- 5.A.10 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Director of Finance (08/22/08), the Council set September 16, 2008 for a Public Hearing to consider an Amendment to the Adopted 2008-09 Municipal Fee Schedule to include solar fees.
- 5.B.1 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (08/20/08), the Council approve, and authorize the City Manager to execute, an Agreement and Covenant Running with the Land with Mission Terrace, LLC to defer the installation of City underground electric improvements at 1883 Agnew Road and authorize the recordation of the Agreement (APN 097-08-102; S.C. 18,273).

- 5.B.2 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Director of Finance (08/13/08), the Council approve, and authorize the City Manager to execute, the Oracle License and Services Agreement and related Ordering Document for Hyperion Planning Licenses and Support for the Budget System Upgrade in the amount of \$107,417.97.
- 5.C.1 MOTION was made by Kolstad, seconded and carried with McLeod abstaining (domestic partner has a source of income from Charities Housing), that the Council note and file the following Informational Memo: Report on actions taken during the City Council/Redevelopment Agency recess from July 16, 2008 to August 18, 2008 (Housing and Community Services Division Manager - 08/19/08)
- 5.C.2,3 MOTION was made by Kolstad, seconded and unanimously carried, that the Council note and file the following Informational Memos: Groundbreaking Ceremony for the Belovida Senior Apartment Project (Housing and Community Services Division Manager - 08/19/08) and Approval of Exhibit A Equipment Schedule 90921 dated 07/31/08 to the Master Lease Agreement for Golf Cars at the Santa Clara Golf and Tennis Club - Yamaha Golf Car Company (Acting Director of Parks and Recreation - 08/20/08).
- 5.D.1 MOTION was made by Kolstad, seconded and unanimously carried, that the Council note and file the Minutes of the Senior Advisory Commission for the meeting of July 28, 2008.
- 5.E.1 MOTION was made by Kolstad, seconded and unanimously carried, that, per the Chief of Police (08/13/08), the Council approve the Santa Clara High School request to hold the Homecoming Parade on October 3, 2008 at 3:15 pm from 1313 Franklin Street to Madison Street, Lexington Street, Main Street, Market Street and Monroe Street to Townsend Field.
- 6.A PUBLIC HEARING: The Mayor declared the hearing open for consideration of the approval of an Agreement and Covenant Running with the Land with Fourth Avenue, LLC to maintain two non-standard driveway approaches encroaching in the public right-of-way at 550 Moreland Way, one along Lick Mill Boulevard and the other along Moreland Way. The Director of Public Works/City Engineer reviewed his memo (08/20/08). With no public comment, MOTION was made by Caserta, seconded and unanimously carried, that the public hearing be closed. MOTION was then made by Caserta, seconded and unanimously carried, that the Council approve, and authorize the City Manager to execute, the above-referenced Agreement and Covenant Running with the Land with

Fourth Avenue, LLC to maintain two non-standard driveway approaches encroaching in the public right-of-way at 550 Moreland Way, one along Lick Mill Boulevard and the other along Moreland Way (APN 097-08-109, S.C. 18,301) and **authorize** the recordation of the Agreement.

6.B,6.B.1 PUBLIC HEARING: The Mayor declared the hearing open for consideration of the Planning Commission recommendation to adopt a Resolution adopting a Mitigated Negative Declaration and approving General Plan Amendment #68, land use designation from Mixed Use to Transit-Oriented Mixed Use and rezoning from Thoroughfare Commercial (CT) to Planned Development (PD) for the development of a four-story mixed use project with ground floor retail and 60 condominiums above podium parking, site access, circulation, and landscape improvements at 2585 El Camino Real (APN 216-01-008) [PLN2007-06419/CEQ2007-01047 - Greg Malley]. The City Manager introduced the item and the Director of Planning and Inspection reviewed his memo (08/07/08) and gave an electronic presentation. The Director of Planning and Inspection, Director of Public Works/City Engineer and City Attorney answered Council questions. Maia Gendreau, project architect, and Greg Malley, applicant, addressed the Council with comments regarding the subject project and answered Council questions. The Director of Planning and Inspection answered further Council questions. The following people addressed the Council in opposition to the project: Peg Rucker, Arnold Rucker, Marlene Kanawyer, Louis Rubalcava, Stephen A. Adkins, Noelle Tardieu (provided handout including signatures of people opposing the project), Ken Gaugler, Kevin Park (electronic presentation), Judi Seip (electronic presentation), Sue Taylor, Barbara Murphy, Tom DeFranco, Andrew Kearny, Anna Kearny, Ciarin O'Donnell, Jacob Taylor, Van Langston, Perry Demohest, Russel Wells and John Hyatt. James Rowen addressed the Council with general comments. The City Manager, Director of Planning and Inspection and Director of Public Works/City Engineer provided answers to questions that arose during public testimony. Mr. Malley made closing remarks. With no further public comment, MOTION was made by Caserta, seconded and unanimously carried, that the Council **close** the public hearing. Following a Council discussion, MOTION was then made by McLeod, seconded and carried with Caserta dissenting, that the Council **refer** the matter to the City Manager and to the Architectural Review Committee for review and to return to Council at a later date. The Council duly noted and filed the neighborhood petitions and letters opposing the project.

6.C,6.C.1 PUBLIC HEARING: The Mayor declared the hearing open for consideration of the Director of Planning and Inspection's memo (08/06/08) regarding the Planning Commission recommendation to deny the rezoning of the property located at 1575 Pomeroy Avenue from Single Family Residential (R1-6L) to Planned Development (PD/R3-18D) to demolish the existing house and accessory buildings and construct three detached residences [PLN2007-06781 - Kurt Anderson of Anderson Architects/ERN Speno LLC]. Kurt Anderson, applicant, addressed the Council and requested that the hearing be continued to September 16, 2008 so that material on the subject project could be distributed. Eddie Souza addressed the Council in opposition to the proposed continuance. MOTION was made by McLeod, seconded and carried with Kennedy dissenting, that the Council continue the hearing to September 16, 2008. The Council duly noted and filed the informational memo entitled, "Notification of Public Hearings in General and Regarding 1575 Pomeroy Avenue" (Deputy City Manager and Director of Planning and Inspection - 09/22/08).

7.A.1 The Council proceeded to consider Item 9 the Minutes of the Planning Commission for the meeting of July 23, 2008 and the Commission's recommendations to adopt a Resolution to approve rezone from R1-6L (Single Family Residence) to R2-7L (Duplex) to allow the construction of a second two-story single family home at 4041 Davis Street (APN 104-12-079) [PLN2007-06257 - Kishin Kanuga/Robert Fitch]). The Director of Planning and Inspection reviewed his memo (08/06/08) and gave an electronic presentation. He then answered Council questions. Robert Fitch, representing the applicant, addressed the Council regarding the project and answered Council questions. MOTION was made by Caserta, seconded and unanimously carried, that the Council adopt Resolution No. 08-7554 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, APPROVING A REZONE FROM R1-6L (SINGLE FAMILY RESIDENTIAL) TO R2-7L (DUPLEX) AT 4041 DAVIS STREET" which approves the Rezone from Single Family Residential (R1-6L) to Duplex (R2-7L) to allow the construction of a second two-story single family home at 4041 Davis Street.

7.A.2 The Council proceeded to consider Item 11 of the Minutes of the Planning Commission for the meeting of July 23, 2008 and the Planning Commission's recommendation for the adoption of the El Camino Real Corridor development guidelines, check sheet and map and consider the Grand Boulevard Initiative and Guiding Principles as part of the City's comprehensive General Plan update. The Director of Planning and Inspection reviewed his memo (08/15/08). The Director of Planning and Inspection, City Attorney and City Manager answered Council questions. MOTION was made by Caserta, seconded and unanimously carried, that the Council **approve** the El Camino Real guidelines, check sheet, and map (collectively the "El Camino Real Corridor Development Guidelines"), **consider** the Grand Boulevard Initiative and Guiding Principles as part of the City's comprehensive General Plan update and to also include the automatic referral to the Architectural Review Committee of all projects along the El Camino Real that abut residential or historical properties and to refer the topic of the City's Historical Guidelines to the City Manager to report back to the Council.

The Minutes of the Planning Commission for the meeting of July 23, 2008 were then duly noted and filed.

9. Under Public Presentations, Eddie Souza addressed the Council with concerns regarding cable service and issues pertaining to ownership of the properties located at 1525 Pomeroy Avenue. Noelle Tardieu addressed the Council with comments regarding mixed use along the El Camino Real. Lou Faria addressed the Council with comments clarifying the process for inspection services for the Morse Mansion.

10.A MOTION was made by Caserta, seconded and unanimously carried, that, per the Executive Assistant to the City Manager (08/20/08), the Council appoint City Attorney Helene Leichter as voting delegate and Administrative Analyst Pam Morrison as voting alternate to represent the City at the League of California Cities 2008 Annual Business Meeting on September 27, 2008.

10.B MOTION was made by Caserta, seconded and unanimously carried, that, per the Director of Planning and Inspection (08/21/08), the Council **adjourn** this evening's meeting to Wednesday, September 10, 2008 for a Joint City Council/Planning Commission meeting to discuss the 2010-2035 General Plan Update.

10.C The Council proceeded to consider the Director of Planning and Inspection's memo (08/22/08) recommending the approval for the City Manager to execute an agreement for inspection services for the Morse Mansion located at 981 Fremont Street. Council Member Caserta and Mayor Mahan excused themselves from the dais because of a conflict of interest (residences within 500 feet of subject property). The City Manager gave a report on the subject project and an electronic presentation. She and the Director of Planning and Inspection answered Council questions. The following people addressed the Council with comments expressing concern for the project: Lou Faria, Dorothy Legger, Tom Hinton and Kris Motyka. The City Manager then answered further Council questions. MOTION was made by McLeod, seconded and carried with Caserta and Mahan abstaining (residences within 500 feet of subject property), that the Council authorize the City Manager to execute an agreement for inspection services in an amount not to exceed \$17,000 for the Morse Mansion located at 981 Fremont Street with the addition of completing interior and exterior photographs of the Morse Mansion and approve \$17,000 additional appropriations in the Planning Division Contractual Services (account 001-5532-87870) and a transfer of \$17,000 from the General Contingency Fund Building Inspection Reserve (account 063-44465).

Council member Caserta and Mayor Mahan returned to the dais.

11.A MOTION was made by Caserta, seconded and unanimously carried, that the Council approve the payment of Bills and Claims and Progress Payments as submitted.

12.A Mayor Mahan reported that the Groundbreaking for the Belovida Senior Housing Project will be September 4, 2008.



14.A The City Attorney stated that the Council held earlier in the evening at 5:00 pm a **Closed Session** in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and that there was no reportable action and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and that there was no reportable action.

14.A **MOTION** was made by Caserta, seconded and unanimously carried, that, per the City Attorney (08/22/08), the Council **set September 16, 2008** at 5:00 pm for a **Closed Session** in the Council Conference Room 1) pursuant to Government Code Section 54956.8 for a Conference with Real Property Negotiator regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and 2) pursuant to Government Code Section 54957.6 for a Conference with Agency Labor Negotiator, City Negotiator: City Manager (or her designee), Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

15.A MOTION was made by McLeod, seconded and unanimously carried, that there being no further business, the meeting was adjourned at 10:50 pm in **Memory of William P. Kiely, Jr.** (third generation native and lifetime resident of Santa Clara and served three terms on the Santa Clara City Council) and to Wednesday evening, September 10, 2008 at 7:00 pm for a joint Council/Planning Commission meeting, to Tuesday evening, September 16, 2008 at 5:00 pm for a Closed Session in the Council Conference Room and to 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: \_\_\_\_\_

City Clerk

APPROVE: \_\_\_\_\_

Mayor